Proposed changes to liability and entitlements for psychological injury in New South Wales

Questions on notice

QoN	Question and response
1	**The Hon. DAMIEN TUDEHOPE:** The current claims model remains in place, and you'd be able to continue to make claims on the TMF, and the self-insurer would be responsible for those claims, would they not? **SONYA CAMPBELL:** Correct. **The Hon. DAMIEN TUDEHOPE:** So the decision — if that was the Treasurer's decision — not to make the payment in accordance with the current guidelines relating to the net asset holding policy, in effect, would not have any impact in relation to the ability to make claims. **SONYA CAMPBELL:** Yes, I think that's correct, Mr Tudehope. **The Hon. DAMIEN TUDEHOPE:** And the liability of the government for those claims would remain the same? **SONYA CAMPBELL:** That's correct. **The Hon. DAMIEN TUDEHOPE:** It would just be a different manner in which you enter that potential liability on your balance sheet. **SONYA CAMPBELL:** Well, the liability valuations are reflected in the budget and the balance sheet on an annual basis. **The Hon. DAMIEN TUDEHOPE:** Yes, but the scheme at the moment requires the Government to, in fact, transfer money to the TMF to make sure that it reaches a particular percentage relating to the net asset holding policy, does it not? **SONYA CAMPBELL:** No, the net asset holding policy no longer applies. The contribution and transfer framework has taken its place, and there are various principles in there that will determine whether a contribution should be made in the context of the whole one fund. **The Hon. DAMIEN TUDEHOPE:** So what you have indicated is that there is a new contribution and transfer policy? **SONYA CAMPBELL:** Correct. **The Hon. DAMIEN TUDEHOPE:** Is that in a document? **SONYA CAMPBELL:** It is in a document. **The Hon. DAMIEN TUDEHOPE:** Can we have a copy of that document? **SONYA CAMPBELL:** It's not published. It's a Treasury internal document. I'd have take that on notice and come back to you, Mr Tudehope.
	Response Please refer to Attachment A.
2	**The Hon. MARK LATHAM:** Has Treasury got any forecasts that it has provided to the Treasurer?

	SONYA CAMPBELL: We receive the liability valuations from icare. In relation to the TMF, we also monitor the investment returns, and there's a combination of those that determines the position of the TMF at any particular point in time. **The Hon. MARK LATHAM:** What do those forecasts show three years from now if there's no top-up? **SONYA CAMPBELL:** I don't have those numbers, Mr Latham. **The Hon. MARK LATHAM:** Can you take that on notice? **SONYA CAMPBELL:** I can, yes.
	Response Forecasts are still in the process of being finalised as part of the 2025-26 Budget and in part will depend on the nature of the reforms currently being debated. We will thus be able to provide these forecasts once the 2025-26 Budget is released.
3	**The Hon. MARK LATHAM:** What are the origins of the taskforce that was to deal with this looming financial crisis? **ANDRÉE WHEELER:** There has been proceeding advice provided to government both from ourselves as well as from icare and SIRA in relation to the financial positions of each of the schemes and the growing trends in relation to psychological injury. **The Hon. MARK LATHAM:** Could you take on notice the membership of the taskforce for the benefit of the Committee, please? **ANDRÉE WHEELER:** Certainly.

	Response
	• The Taskforce includes representatives from NSW Treasury, the Department of Customer Service (DCS), State Insurance Regulatory Authority (SIRA) and icare, including:
	  ○ Deputy Secretary, Commercial, NSW Treasury
	  ○ Deputy Secretary Policy, Strategy and Governance, DCS
	  ○ Chief Executive, SIRA
	• A full list of members can be found at Attachment B.

Contributions and Transfers Framework

Context:

Over time, the State has established several schemes to meet certain liabilities and/or achieve policy purposes. For efficiency and prudential purposes, investment funds have been set up to support the aims of these schemes. Scheme sustainability is ensured by maintaining an appropriate ratio of assets to liabilities, or by seeking to achieve a target funding ratio over time.

Investment returns contribute to the funding of these liabilities and purposes. Long term, these investment returns reduce the reliance on Consolidated Revenue to pay for these schemes and should reduce/optimise the level of required Government contributions.

Returns are generated by taking on investment risk. While this risk is expected to be rewarded in the long term, it also means that investment performance will vary over shorter periods. As such, depending on the nature of the liabilities and their key sensitivities, the State may need to contribute from time to time to smooth the impacts of return volatility and ensure ongoing scheme sustainability. Contributions may be funded through operating surplus cash, other assets, or borrowings as a last option. If funded through borrowings, it will need to be well-managed, with the State's overall fiscal sustainability and legislative commitments being key considerations.

This framework articulates principles to guide Government when deciding how best to ensure the various schemes remain either appropriately funded or remain on a path to be appropriately funded, consistent with policy objectives or legislation. These principles are to be considered within the context of the recently established OneFund and the Government's aim of maintaining fiscal sustainability, particularly with respect to debt levels.

While there are some commonalities in liability drivers between the various schemes, differences in value, asset bases, policy, legislation, timeframes and arrangements need some difference in approach. As such, this framework comprises general principles applying to all schemes and more specific principles applying to:

1. Schemes in or related to OneFund (Appendix A)
2. The Defined Benefit Superannuation Schemes (Appendix B)

General Principles

1. Where Government establishes a scheme that is to be backed by an investment trust, then either:

    a. Sufficient assets are set aside at the outset to ensure an appropriate scheme funding level, and/or

    b. A contributions plan is established to achieve an appropriate scheme funding level over time.

2. Contributions and transfers should be made in a way that is efficient and minimises the need to borrow.

3. The need to contribute or transfer should be reviewed periodically, considering updated liability positions and asset valuations, scheme cashflow needs and policy parameters.

4. Contributions are to be made, or other action taken to promote scheme funding sustainability, when it is assessed that a change in a scheme's funding target is structural (a 'sufficiency' issue) or where it is not otherwise possible to transfer between funds.

5. Transfers between schemes invested in OneFund (subject to any ring-fencing under legislation, direction or otherwise) are to be made where it is assessed that a change in a scheme's funding target is temporary (e.g. a 'liquidity' issue) and there is capacity and no policy restriction within other schemes to make a transfer.

6. Whether a scheme is underfunded temporarily or structurally will mainly be a function of how large the shortfall is and how long it is expected to last. Liability values will be based on either an 'accounting' or 'funding' ratio, as appropriate for each scheme[1] and applying the relevant liability horizon for the scheme.

7. Funding adequacy assessments should be made annually, and no later than April of each year, so they may be considered as part of the annual Budget process.

8. Sensitivity analysis around the base case funding position should be provided to Treasury by scheme so that potential vulnerabilities are better understood.

9. This framework and its appendices are to be reviewed periodically, including consultation with relevant stakeholders, to ensure they remain fit for purpose and approved by the Expenditure Review Committee.

Appendix A – Schemes in or related to OneFund

The purpose of the OneFund Contributions and Transfers framework is to:

1. Provide high level guidance on when to contribute to participating schemes, and how they should be made
2. Enable transfers between participating schemes
3. Efficiently manage the funding of cashflow needs of participating schemes
4. Minimise the frequency and amount of additional appropriations to maintain scheme funding adequacy

Principles:

a) Funds invested in OneFund are to be managed as if they are a single fund, with a common risk appetite statement and investment strategy approved by the Treasurer.

b) Although the funds will be invested in the same way, the schemes or programs they support remain distinct, such that scheme funding adequacy will continue to be considered at the individual level in the first instance.

c) Whether a scheme within OneFund is supported by a transfer or a contribution will depend on:

[1] The accounting ratio is that which uses relevant accounting standards to determine liability values, consistent with Budgeting and Annual reporting practices. The funding ratio is that which may be used from time to time to determine contributions plans for various schemes (e.g. some defined benefit superannuation schemes).

i. The nature, magnitude and duration of the shortfall – e.g. a liquidity issue (short-term – implies transfer) or sufficiency issue (long-term – implies contribution),
ii. Ensuring a source scheme is not left inadequately resourced after a transfer to a recipient scheme.
iii. Contributions not materially worsening the State's broader fiscal position where financially feasible alternatives exist.

These factors will determine if funds are to be transferred between schemes or if an appropriation into a scheme is needed.

Assessing funding adequacy

a) The funding adequacy of OneFund and its participating funds is to be calculated monthly and assessed annually in the lead-up to the Budget, to determine the ability to meet future cashflows and/or liabilities.

b) The funding adequacy ratio will be calculated as the value of scheme assets relative to the net present value of scheme liabilities expected for the annual Budget.

c) The funding adequacy of each fund will be assessed individually in the first instance and may take into account scheme assets not held in OneFund (e.g. cash at bank).

d) The funding adequacy of all funds in OneFund will also be assessed collectively (the 'Collective Funding Ratio'), excluding the DRF and any other ring-fenced schemes.

e) The funding adequacy of all funds in OneFund will also be assessed collectively, including the DRF.

f) Annual funding adequacy assessments should occur no later than April each year and be presented to ALCO for endorsement.

The transfer mechanism

a) Subject to funding adequacy, both cash and non-cash transfers across the participating schemes should be permitted however, there are exceptions to this:

iv. The NSW Generations (Debt Retirement) Fund (DRF) is to be excluded from the transfer mechanism to keep its ring-fencing for credit rating purposes but may be used to retire debt to support contributions to a fund where Collective Funding Ratio criteria are met (see below).
v. The Long Service Corporation (LSC), Lifetime Care and Support Authority and Dust Diseases Authority funds are also to be excluded from the transfer mechanism because their contributions have been made by, and are held for the benefit of, third parties.
vi. Other funds and schemes may, over time, be ring-fenced under legislation, direction or otherwise.

b) Agencies responsible for impacted schemes will agree transfer terms, with the transfer to be endorsed by Treasury's Asset and Liability Committee (ALCO) and approved by the Treasurer.

c) Investment returns will accrue to the fund receiving the transfer.

Criteria for transfers and contributions

1. A *transfer* between funds will be made where:
   a) The funding adequacy of a recipient fund is assessed to be less than [95] per cent, and
   b) This deficiency is not expected to persist beyond a period of [24] months, and
   c) A donor fund(s) post-transfer funding adequacy remains above 100 per cent, and
   d) The Collective Funding Ratio of those funds included in this OneFund Contributions and Transfers Framework remains above 100 per cent.

2. Where the criteria under (1) are not met, the Debt Retirement Fund will be used to retire state debt, and the resultant borrowing capacity used to *contribute* to the recipient fund, provided the Collective Funding Ratio including the DRF remains above 120 per cent.

3. Where the criteria under (2) are not met a *contribution* to the recipient fund will be made using other available state resources (cash, borrowings, other suitable assets).

4. Where the shortfall is considered to be structural (e.g. the nature of the liabilities/cashflows has changed, or the change is expected to be significant and persistent), Treasury will work with the relevant administering agency to assess what other action may be needed to maintain scheme sustainability.

Periodically Government may choose to contribute to State funds within OneFund where it is considered prudent and there is fiscal capacity to do so.

Where legally allowed, Government may choose to withdraw amounts previously contributed to State funds within OneFund, where it is considered prudent to do so.

Proposed contributions will be endorsed by ALCO and approved by the Treasurer or the Expenditure Review Committee.

Appendix B – SAS Trustee Corporation (State Super) Sustainable Funding Framework

Scope

This framework applies to the General Government Sector's (GGS) defined benefit liabilities that are managed by SAS Trustee Corporation (State Super). This includes the:

i. State Superannuation Scheme (SSS),
ii. State Authorities Superannuation Scheme (SASS),
iii. State Authorities Non-contributory Superannuation Scheme (SANCS), and
iv. Police Superannuation Scheme (PSS).

Objectives

a) To ensure that, at the close of each financial year, the Crown Contribution Plan is forecast, within a Threshold Range, to be sufficient to achieve 'full funding[2]' of STC's GGS defined benefit superannuation liabilities by 2040, and

b) To support State Super and Pooled Fund annual financial statements disclosures.

Threshold Range

a) The Threshold Range is the present value of the forecast funding position at 30 June 2040 (based on the AASB 1056 methodology) that is between:

   i. an underfunded position of $4 billion, and
   ii. an overfunded position of $2 billion.

b) Note that the Threshold Range will be reviewed triennially. The magnitude of the Threshold Range will be reduced at each review (and would approach zero by 2040).

Contribution Plan Review Mechanism

a) In preparation for its annual Asset and Liability Modelling (ALM) review (conducted in Q1 each calendar year), State Super will share its key economic assumptions with Treasury, by 31 January. State Super will provide Treasury with its:

   i. short and long-term forecasts of the Sydney CPI, and
   ii. expected long-term investment return/required rate of return/discount rate.

b) By 15 February, Treasury will respond with its views on the assumptions.

c) State Super's ALM review will forecast the net defined benefit superannuation liabilities for its GGS members as at the prior year end (30 June) as at 2040 (and the present value of that net liability).

d) State Super will update its ALM Review forecast of the net liability in 2040, as at 28 February, based on:

   i. actual CPI and investment return experience since 30 June of the prior year, and
   ii. any changes to short and long-term forecasts of the Sydney CPI and expected long-term investment return/required rate of return/discount rate.

e) By 15 March, STC will provide the forecast, the impact of actual experience and assumption changes post 30 June, sensitivity analysis around the key assumptions and any implications for the funding position and level of contributions required will be presented to Treasury for discussion.

f) By 31 March, STC will provide a letter to the Treasurer (with a copy sent to Treasury), detailing:

   i. The present value of the forecast net funding position at 2040, and
   ii. Either:
      i. STC's request for an amendment to the contribution plan to return the forecast net funding liability in 2040 to zero, if the present value of the net funding position in 2040 is outside the Threshold Range, or

[2] 'Full funding' in this context means the situation where the projected funding ratio (assets/liabilities) for the Schemes is equal to (or greater than) 100% at 30 June 2040.

ii. That STC is satisfied with the current contribution plan if within the Threshold Range.

g) Where STC requests a change in the Crown Contribution Plan, Treasury will provide a brief to the Treasurer by 30 April containing its advice relating to any change to the Crown Contribution Plan.

h) The Treasurer will respond to STC in writing by 15 May, with the Treasurer's preferred Crown Contribution Plan.

i) Treasury and STC may agree to amend the timeline stated above in certain years to accommodate unusual budget release dates.

j) Note that this framework does not preclude STC or Treasury from recommending an amendment of the Crown Contribution Plan at any other point in the year if either party believes it is appropriate to do so.

Framework Review

a) The framework will be reviewed triennially (in the same year as STC's formal triennial review) by Treasury, in consultation with STC. The first such review is proposed for the end of 2026.

b) Any proposed changes to the framework must be approved by the Treasurer.

Attachment B

Taskforce membership

Executive Coordination Committee (ECC) – Workers Compensation Reform Modernisation Project

Organisation	Title
Treasury	Deputy Secretary, Commercial
Department of Customer Service (DCS)	Deputy Secretary Policy, Strategy and Governance
State Insurance Regulatory Authority (SIRA)	Chief Executive

Taskforce Leads – Workers Compensation Reform Taskforce

Organisation	Title
Treasury	Executive Director, State Insurance Schemes
DCS	Executive Director Portfolio, Policy and Cabinet

Other supporting members

Organisation	Title
SIRA	Director Scheme Design Policy and Performance
SIRA	Manager Media and Communications
Treasury	Director State Insurance Schemes
Treasury	Associate Director Policy
Treasury	Associate Director Policy
icare	General Manager Technical & Scheme Design Workers Compensation
icare	General Manager, Actuarial Services
icare	Head of Policy Stakeholder Relations & Policy Risk & Governance
icare	Head of Customer Outcomes
DCS	Director Workers Compensation Project

Attachment B

DCS	Principal Policy Officer
DCS	Principal Policy Officer
DCS	Senior Policy Officer
DCS	Legal Administrator